

November 4, 1999

Dennis J. Moss
Administrative Law Judge
Washington Utilities and Transportation Commission
P. O. Box 47250
Olympia, Washington 98504-7250

Re: In re Joint Application for Merger of Qwest Communications International Inc. and
U S West, Inc., Docket No. UT-991358

REQUEST FOR CONTINUANCE

Dear Judge Moss:

Pursuant to WAC 480-09-440, Commission Staff requests a continuance of the date on which Commission Staff is to prefile its direct testimony and exhibits in this proceeding. That date is November 22, 1999. Staff has not previously requested a continuance in this matter. Staff has notified counsel representing U S West and Qwest of its intention to file this request for continuance.

This request primarily is based on the fact that U S West and Qwest have failed to comply with the requirements of WAC 480-09-480, the Commission's rule governing discovery. Commission Staff has issued a total of 139 data requests to the companies to date. Although Staff is to file its testimony in 18 short days, many of Staff's data requests remain unanswered. Receipt of those responses (along with a meaningful opportunity to analyze those responses) is central to the presentation of Staff's case.

The Commission further should be advised that not a single response has been provided in a timely manner despite the following language in the prehearing conference order in this case stating that "[r]esponses to data requests are required to be **provided in-hand no more than (7) business days after receipt.**" Nor has counsel complied with WAC 480-09-480 which provides that:

"[i]n the event the data cannot be supplied within [seven] days, the responding party shall notify the requesting party, in writing and within five days of receipt of the request of the reasons why the [seven]-day limit cannot be met. In this event, the responding party shall also provide a schedule for producing the requested data or shall explain why portions of the data will not be supplied."

Although I have been in contact with counsel for U S West and Qwest concerning discovery, I

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have received mostly inadequate explanations for the delay in responding to Staff's data requests. Counsel explained that the companies are inundated with data requests from various parties, they are working diligently to provide answers, the companies are not accustomed to coordinating their discovery efforts, and they are "doing their best." While these statements may be accurate, Staff's case should not be compromised in favor of U S West and Qwest who appear to be retreating from their commitment to provide timely discovery. This demonstrates why this matter may not proceed on an expedited basis.

Commission Staff currently is awaiting responses to the following data requests:

DATA REQUEST NUMBERS	RESPONSE DUE DATE
WUTC No. 29	10/26/99
WUTC No. 30	10/26/99
WUTC No. 33	10/26/99
WUTC Nos. 35 through 37	10/26/99
WUTC No. 48	10/26/99
WUTC Nos. 49 through 95	11/02/99
WUTC No. 102	11/03/99
WUTC No. 119	11/03/99
WUTC No. 123	11/03/99
WUTC No. 127	11/03/99
WUTC Nos. 130	11/03/99
WUTC Nos. 132 through 137	11/03/99

In addition, to avoid duplication, Staff refrained from issuing certain data requests, choosing instead to rely on the responses to those issued by Public Counsel. To date, the companies have not responded to the following data requests issued by Public Counsel: Nos. 27, 29, 30, 35, and 46. Those responses were due on October 20, 1999, with the exception of the response to Data Request No. 46 which was due on October 21, 1999. After "meeting and conferring" with Counsel, Staff may have no choice but to file a motion to compel discovery.

At the prehearing conference, Counsel for U S West and Qwest urged the Commission to set an expedited hearing schedule in this matter, agreeing to a shortened, 7-day, turn-around time for discovery. Commission Staff, anticipating delays in discovery and the receipt of incomplete responses to legitimate discovery requests, urged the Commission to set a less-expedited schedule noting that under the terms of the merger agreement, the merger agreement may be terminated by either Qwest or U S West if:

the merger has not been completed by July 30, 2000. However, that date is

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automatically extended to December 31, 2000 if the reason the merger has not been completed by July 30, 2000 is the failure of the regulatory conditions specified in the merger agreement to be satisfied; . . .

Securities and Exchange Commission Form S-4 at I-37.

Accordingly, the companies will suffer no harm in the event the Commission grants Staff's request for a continuance. Assuming that the companies will complete their responses to all outstanding discovery requests within one week, and assuming that the responses provided will be complete (this latter assumption may prove too large), Staff should be prepared to prefile its testimony and exhibits on December 13, 1999. Should this schedule change necessitate a slippage in the balance of the hearing schedule, that matter should be addressed in a subsequent status conference.

Commission Staff believes the granting of this request for continuance would be consistent with the public interest. Thank you for your consideration.

Very truly yours,

SALLY G. JOHNSTON
Assistant Attorney General

c: All Parties